



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Blue Ridge Regional Office

www.deq.virginia.gov

Doug Domenech
Secretary of Natural Resources

Lynchburg Office
7705 Timberlake Road
Lynchburg, Virginia 24502
(434) 582-5120
Fax (434) 582-5125

David K. Paylor
Director

Steven A. Dietrich
Regional Director

Roanoke Office
3019 Peters Creek Road
Roanoke, Virginia 24019
(540) 562-6700
Fax (540) 562-6725

**STATE AIR POLLUTION CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
UNITED STATES ARMY
AND
ALLIANT TECHSYSTEMS INC.
FOR
RADFORD ARMY AMMUNITION PLANT**

Registration No. 20656

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and -1316, between the State Air Pollution Control Board and the United States Army, RFAAP (Owner) and Alliant Techsystems Incorporated (Operator), regarding the Radford Army Ammunition Plant, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law, 40 CFR Part 63 Subpart EEE, the January 15, 2004 Title V Federal Operating Permit, and the applicable regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Alliant" means Alliant Techsystems Incorporated, a corporation authorized to do business in Virginia and its affiliates, partners, subsidiaries, and parents. Alliant is a "person" within the meaning of Va. Code § 10.1-1300.
2. "Board" means the State Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1301.
3. "BRRO" means the Blue Ridge Regional Office of DEQ, located in Roanoke, Virginia.

4. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.
5. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
6. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
7. "Facility" or "RFAAP" means the Radford Army Ammunition Plant located off State Route 114, Radford, Virginia that manufactures propellants and munitions for the Department of Defense.
8. "Notice of Violation" or "NOV" means a type of Notice of Violation under Va. Code § 10.1-1309.
9. "O & M" means operations and maintenance.
10. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the Virginia Air Pollution Control Law.
11. "Permit" means the Title V Permit to operate a propellant and munitions plant, which was issued under the Virginia Air Pollution Control Law and the Regulations to Alliant and the United States Army on January 15, 2004.
12. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" means 9 VAC 5 Chapters 10 through 80.
13. "The Parties" means the United States Army (Owner) and Alliant Techsystems Inc. (Operator).
14. "United States Army" means the United States Department of the Army, a governmental body. United States Army is a "person" within the meaning of Va. Code § 10.1-1300.
15. "Va. Code" means the Code of Virginia (1950), as amended.
16. "VAC" means the Virginia Administrative Code.
17. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.

"SECTION C: Findings of Fact and Conclusions of Law"

1. The United States Army owns the Facility in Radford, Virginia and by contract, Alliant is the operator. The Facility manufactures propellant and munitions for the Department of Defense.
2. The Facility is the subject of the Permit which grants authorization to operate a Stationary Source of Air Pollution.

3. On January 8, 2010, Department staff conducted a Partial Compliance Evaluation of the Facility record (stack test report) for compliance with the requirements of the Virginia Air Pollution Control Law, 40 CFR Part 63 Subpart EEE, the Permit, and the Regulations. Based on the inspection and follow-up information, Department staff made the following observation:

The stack report demonstrates a lead emission value of 435 µg/dscm.

4. 40 CFR 63.1219(a)(3) states: "Emission limits for existing sources. You must not discharge or cause combustion gases to be emitted into the atmosphere that contain: Cadmium and lead in excess of 230 µg/dscm, combined emissions, corrected to 7 percent oxygen."
5. Condition IX.A.1 of the Permit states: "In accordance with 40 CFR 63, Subpart EEE, Section 63.1203(a), the permittee shall not discharge or cause combustion gases to be emitted into the atmosphere that contain emissions in excess of the following: Combined lead and cadmium 240 µg/dscm corrected to 7 percent oxygen."
6. On February 9, 2010, based on the inspection and follow-up information, the Department issued a Notice of Violation to the Parties, for the violation listed in paragraphs C3 through C5 above.
7. On February 23, 2010, Department staff met with representatives of the Parties to discuss the violation.
8. Based on the results of January 8, 2010 inspection and the February 23, 2010 meeting, the Board concludes that that the Parties have violated 40 CFR 63.1219(a)(3) and Condition IX.A.1 of the Permit as described in paragraphs C3 though C5 above.
9. In order for the Parties to return to compliance, Department staff and representatives of the Parties have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.
10. By signing this Order, the United States Army does not waive sovereign immunity.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders the Parties, and the Parties agree to:

1. Perform the actions described in Appendix A of this Order, and
2. Alliant will pay a civil charge of \$20,387.50 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Alliant shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF).

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of the Parties for good cause shown by the Parties, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, the Parties admit the jurisdictional allegations, and agree not to contest, but neither admit nor deny the findings of fact and conclusion of law in this Order.
4. Alliant consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. The Parties declare it has received fair and due process under the Administrative Process Act and the Virginia Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by the Parties to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.

8. The Parties shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. The Parties shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. The Parties shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
- a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the Parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the Parties hereto, its successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and the Parties. Nevertheless, the Parties agree to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
- a. The Parties petition the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - b. the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to the Parties..

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve the Parties from their obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. In accordance with the Federal Anti-Deficiency Act, the obligations of the United States Army under this section are expressly conditioned on the availability of Congressional appropriations, which the U.S. Army agrees to seek in amounts sufficient to timely accomplish these undertakings. If sufficient appropriations are not available and cannot be obtained, the United States Army will promptly inform

the DEQ Regional Director. In such case, the Director may terminate the Order and take other action, if so desired, or amend the Order with United States Army consent or in accordance with the Administrative Process Act.

13. Any plans, reports, schedules or specifications attached hereto or submitted by the Parties and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
14. The undersigned representatives of the Parties certify that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind the Parties to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of the Parties.
15. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
16. By its signature below, the Parties voluntarily agree to the issuance of this Order.

And it is so ORDERED this 22nd day of MARCH, .



Steven A. Dietrich, Regional Director
Department of Environmental Quality

The United States Army, RFAAP voluntarily agrees to the issuance of this Order.

Date: 18 March 2010

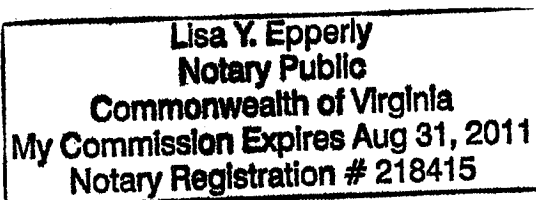
By: Antonio Munera
Antonio Munera
Lieutenant Colonel
United States Army, Commanding

Commonwealth of Virginia

City/County of Montgomery

The foregoing document was signed and acknowledged before me this 18th day of
March, 2010, by Antonio Munera who is Commander of the Radford Army Ammunition
Plant.

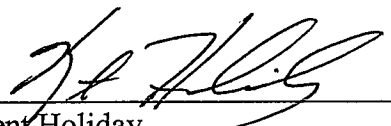
Lisa Y. Epperly
Notary Public



Notary Seal

My commission expires: _____

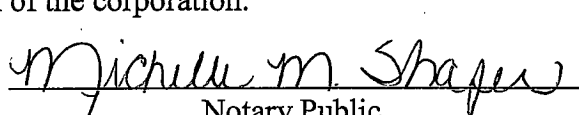
Alliant Techsystems Incorporated voluntarily agrees to the issuance of this Order.

Date: March 22, 2010 By: 
Kent Holiday
Vice President and General Manager
Alliant Techsystems Inc.

Commonwealth of Virginia

City/County of Montgomery

The foregoing document was signed and acknowledged before me this 22 day of
March, 2010, by Kent Holiday who is Vice President and General Manager of Alliant
Techsystems Incorporated, on behalf of the corporation.

 #155704
Notary Public

Notary Seal

My commission expires: 3-31-12

APPENDIX A
SCHEDULE OF COMPLIANCE

1. The Parties shall:

- a) Burn Group 7, Group 12, or Miscellaneous Group 2 wastes only when conducting pre-testing or performance testing on the incinerators. The Department will provide written notification when the Facility may resume burning of these wastes on a continuous basis.
- b) Test incinerators # 440 and #441 to demonstrate compliance with the semi-volatile metals emission standard.
- c) Submit written results of all compliance performance testing within 60 days of completing the tests.
- d) Submit the Notification of Compliance as required by 40 CFR Part 63 Subpart EEE, no later than June 15, 2010.
- e) Demonstrate compliance with the semi-volatile emission standard no later than October 1, 2010.

2. Certification of Documents and Reports

In accordance with 9 VAC 5-20-230(A), in all documents or reports, including, without limitation, the SEP Completion Report, submitted to DEQ pursuant to this Consent Order, The Parties, shall by its officers, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering and evaluating the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

3. DEQ Contact

Unless otherwise specified in this Order, the Parties shall submit all requirements of Appendix A of this Order to:

Consent Order
United States Army, RFAAP and Alliant Techsystems Inc.
Registration No. 20656
Page 10 of 10

Mary S. Monroe
Air Compliance Engineer
VA DEQ-BRRO Roanoke
3019 Peters Creek Road
Roanoke, VA 24019
(540) 562-6850
mary.monroe@deq.virginia.gov